IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 887 OF 2007

Sou.Kamal Parshuram Patil.... Petitioner

versus

Shankar B. Belundakar ..... Respondent.

Shri M.R.Suryawamshi for the petitioner.
Shri R.S.Apte i/b M.S.Legal for Respondent no.4.

CORAM; A.P. DESHPANDE, J.
DATED; 9TH JULY, 2007

P.C.;

1. The present petitioner is the original plaintiff who brought a suit against her father original defendant no.4 and against her brother original defendant no.2 along with other two defendants. The case of the plaintiff before the trial court is for declaration, partition, separate possession and injunction. It is case of the plaintiff that the suit property was purchased by her and her brother. The petitioner averred in the plaint that the suit property was jointly purchased by the plaintiff and the defendant no.2. The father and the brother has opposed the claim made in the suit by contending that the plaintiff's father original defendant no.4 purchased the property in the name of the plaintiff and defendant no.2 who are his children benami. When

the hearing commenced the petitioner moved an application seeking amendment to the plaint. The plaintiff averred in the amendment application that prior to her marriage with her husband, the husband gave money to the plaintiff to purchase the property in her name. It has come on record that when the property is purchased in the joint name of the plaintiff and the defendant no.2, the plaintiff was a minor. Her marriage appears to have taken place 2/3 years after the sale deed. The trial court has rejected the amendment by holding that the plaintiff is trying to withdraw the admission made in the plaint. Reading of the plaint reveals that the plaintiff claimedo have purchased the property by herself whereas by the proposed amendment the plaintiff is contending that in fact it is her husband who has purchased the property in the name of the plaintiff 2/3 years prior to the marriage.

2. Perused the order passed by the trial court. The same does not call for any interference in exercise of writ jurisdiction. Hence petition is summarily dismissed.

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